

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on August 28, 1998 at the City Council Chambers, City of Loma Linda, California. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the August 28, 1998 hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The City of Colton (City) is a co-permittee under the San Bernardino County Areawide Urban Storm Water Runoff Permit; Waste Discharge Requirements Order No. 96-32, NPDES No. CAS618036 (Permit), adopted by the Board on March 8, 1996; and is subject to the terms of that Permit.
5. The Permit requires the City to prohibit all illicit/illegal discharges from entering the municipal separate storm sewer systems, and specifically prohibits non-storm water discharges from public agency activities. The Permit also requires the City to implement best management practices (BMP) to reduce the discharge of pollutants to waters of the U.S. to the maximum extent practicable.

6. The City is alleged to have violated the Permit conditions by discharging non-storm water containing pollutants to waters of the United States on two separate occasions.
7. From May 28 to June 3, 1998, the City is alleged to have discharged wastewater generated during the acid treatment and rehabilitation of Well No. 22. According to information provided by the City and its contractor, the discharges from Well No. 22 on May 28 and 29 were directed to the City's sanitary sewer system. However, from June 1 to June 3, 1998, a total of 826,029 gallons of wastewater were discharged to Sugar Pine Lane. From Sugar Pine Lane the discharge flowed on to Forest Drive from where it discharged to a storm drain which is tributary to Reche Canyon Wash. Reche Canyon Wash discharges to the Santa Ana River. Five days after the discharge, Regional Board staff observed rust stains and other evidence of pollutant discharges along the gutters and the storm water conveyance systems.
8. On June 11, 1998, Regional Board staff observed a City employee washing a street sweeping truck and allowing an unknown quantity of wastewater to flow into a storm drain system along Fogg Street.
9. These incidents constituted discharges of non-storm water containing pollutants to the waters of the U. S., which are prohibited by the Permit. As required by the Permit, such non-storm water discharges should have been covered under a separate NPDES permit (coverage under the Regional Board's General Waste Discharge Requirements for Discharges to Surface Waters (Deminimus Permit, Order No. 93-49) or an individual NPDES permit). The City neither obtained coverage under the Deminimus Permit, nor received an individual NPDES permit for the discharges. The City also failed to implement any best management practices for the control of pollutants in these discharges. The City of Colton violated the Permit, the California Water Code, and the Clean Water Act by discharging non-storm water containing pollutants to waters of the United States.
10. Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs and an additional liability not to exceed ten dollars (\$10) per gallon for flows in excess of 1,000 gallons.
11. Pursuant to Section 13385, the City is civilly liable in the amount of \$40,000 (for four days of violation) and \$8,250,290 for

the violation based on flow [(826,029-1,000)gal x \$10/gal]. The total maximum liability is \$8,290,290.

12. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes civil liability be imposed on the City by the Board in the amount of \$60,000 for the violation cited above.
13. The Executive Officer further proposes to suspend \$50,000 of this assessment if the City complies with the following:
 - A. By September 30, 1998, submit a report, satisfactory to the Executive Officer, describing the City's plans and schedules for complying with each of the elements described below.

1. Storm Water Conveyance System Inspections and Maintenance:

Develop a program for ongoing storm drain/storm water conveyance system inspections, maintenance, and repair. Inspections should be designed to identify non-permitted, non-storm water discharges; illegal connections; impaired or clogged systems; and systems requiring cleaning, repair, replacement or redesign. Program elements must include:

- System inventory
- Inspection schedule
- Wet and dry season observations
- Inspection records
- Maintenance records
- Enforcement records
- Any other related Permit requirements

2. Industrial/Commercial/Residential and Public Information:

Develop a comprehensive Industrial/Commercial facilities program and a Residential and Public Information and Participation outreach program. Program elements must include:

- Identification by Standard Industrial Classification code (SIC code) of citywide

industrial/commercial facilities and subsequent determination if coverage under the Statewide General Industrial Storm Water Permit (General Industrial Permit) is required and has been obtained.

- An outreach program which targets various industrial/commercial facilities and provides industry-specific information on storm water pollution prevention including industry-specific Best Management Practices (BMP).
- An industrial/commercial facilities inspection program.
- A Clean Business Incentive program.
- A program that will insure that prior to issuance of an Occupancy Permit, applicants are informed of their obligation to determine if they are required to be covered under the state's General Industrial Permit.
- Establish methods to distribute existing Storm Water Public Education materials to City of Colton residents.
- Maintain catch basin stenciling program to include all catch basins and rejuvenate worn stenciling as necessary.
- Any other permit-related requirements.

3. New Development/Redevelopment:

Develop a comprehensive New Development/ Redevelopment program. Program elements must include:

- Revisions to General Plans, Master Plans, Specific Plans, Plan checks, etc. to address adverse impacts on storm water quality from new development and redevelopment projects.
- The inclusion of requirements for the implementation of pollution prevention BMPs as a condition of plan approval.
- Activation of a requirement that new development/redevelopment proponents provide a written Post Construction Storm Water Management Plan which indicates who

is responsible for maintaining permanent post construction BMPs.

- A program to verify that prior to issuance of a grading/building permit, construction sites that are five(5) acres or greater have filed a Notice of Intent for coverage under the Statewide General Construction Activities Storm Water Permit.
- A construction site inspection program to insure implementation of erosion control and construction related BMPs.
- Any other related Permit requirements.

4. *Public Agency Activities:*

Develop a Public Agency Activities program to insure that storm water pollution prevention is practiced and appropriate BMPs are implemented at all public agency activities and facilities. The program must include:

- Completion of the 8 hour Municipal Activities Pollution Prevention Strategy Training by all City of Colton field personnel and maintenance workers (and mechanics and inspectors as appropriate).
- Revision of existing management plans.
- Implementation of appropriate BMPs in the following areas of municipal activities:
 - Corporation Yards
 - Parks and Recreation
 - Storm Drain System Operation and Maintenance
 - Streets and Roads
 - Flood Control Channels
 - Public Facilities
 - Ponds, Fountains, and other Public Water Bodies
- Incorporation of Municipal Activities Pollution Prevention Strategy handbook into the work plans associated with the activities listed above.
- Any other related permit requirements.

For items i. through iv. above, the name and title of the City employee(s) responsible for implementation of the subject programs must be identified. All programs and procedures must be written. All documentation must include a certification that all employees involved in implementation of the program have been properly trained or a schedule for completion of the necessary training.

B. Implement all plans approved by the Executive Officer.

Any violation of the time schedules approved by the Executive Officer will be brought before the Board for its review. If the Board determines that the City violated the settlement terms of this Administrative Civil Liability Complaint, the suspended amount of \$50,000 shall become due and payable immediately.

WAIVER OF HEARING

You may waive your right to a hearing. If you wish to waive the hearing, you have two options:

1. If the City does not accept the suspension provisions specified in Paragraph 13, above, the assessment shall be \$60,000.
2. If the City accepts the suspension provisions specified in Paragraph 13, above, the payable portion of the assessment shall be \$10,000.

If you wish to accept Option 1 or 2, above, please sign the attached waiver form and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed under Option 1 or 2 to the:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

If you have any questions, please contact Michael Adackapara, Chief of the Board's DoD/Storm Water Units, at (909) 782-3238, or contact the Regional Board's staff counsel, Ted Cobb, at (916) 657-0406.

Date

Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 ☎ FAX (909) 781-6288

In the matter of:)	Complaint No. 98-93
)	for
City of Colton)	Administrative Civil Liability
650 N. La Cadena Drive)	
Colton, CA 92324)	

WAIVER OF HEARING

(check one of the following boxes)

- ☐ I agree to waive the City of Colton's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 98-93. I have enclosed a check or money order, made payable to the State Water Resources Control Board in the amount of \$60,000. I understand that I am giving up the City's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.
- ☐ I agree to waive the City of Colton's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 98-93. I have enclosed a check or money order, made payable to the State Water Resources Control Board in the amount of \$10,000. I understand that I am giving up the City's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed. I also understand that if the terms and conditions for suspension of a portion of the assessment are violated, the City could be liable for an additional \$50,000.

Date

for the City of Colton



California Regional Water Quality Control Board

Santa Ana Region

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California Environmental Protection Agency



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California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 ☎ FAX (909) 781-6288

July 15, 1998

Henry Garcia, City Manager
City of Colton
650 N. La Cadena Drive
Colton, CA 92324

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 98-93

Dear Mr. Garcia:

We are enclosing a certified copy of Complaint No. 98-93 proposing administrative civil liability of \$60,000 for violations of Regional Board Order No. 96-32, NPDES NO. CAS618036. A public hearing on this matter may be scheduled for the August 28, 1998 Regional Board meeting at the City Council Chambers, City of Loma Linda, California. The staff report regarding this complaint and the meeting agenda will be mailed to you approximately 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit it to this office prior to August 6, 1998 with a check or money order for \$60,000 (or \$10,000 if you also agree to the conditions specified for suspension of \$50,000 of the proposed assessment). The check or money order should be made payable to the State Water Resources Control Board.

Please note that if you waive your right to a hearing, a public hearing will not be conducted by the Board on this matter. However, if we do not receive a signed copy of the waiver form and a check for the assessment by August 6, 1998, this item will be included in the agenda announcement for the August 28, 1998 meeting (the agenda announcement will be mailed on August 7, 1998).

If you have any questions regarding this Complaint, you may contact Mike Adackapara at 909-782-3238, or Bob Whitaker at 909-782-4993. All legal questions should be referred to our legal counsel, Ted Cobb, at 916-657-0406.

Sincerely,

Gerard J. Thibeault

California Environmental Protection Agency



California Regional Water Quality Control Board

Santa Ana Region

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Phone (909) 782-4130 ☎ FAX (909) 781-6288

Executive Officer

Enclosures: Complaint No. 98-93 and Waiver Form

cc w/enclosures:

City of Colton - John Hutton

City of Colton - Tom Clark

San Bernardino County Storm Water Program - Naresh Varma

Orange County Facilities & Resources Department - Chris Crompton

Riverside County Flood Control and Water Conservation District
- Mark Wills

State Water Resources Control Board, Division of Water Quality -
Bruce Fujimoto

State Water Resources Control Board, Office of the Chief Counsel -
Ted Cobb

U. S. Environmental Protection Agency, Region 9 (W-5-3) - Ken
Greenberg

U. S. Environmental Protection Agency, Region 9 (W-5-1) - Eugene
Bromley

Layne Christensen Company - Jim Hausladen





Peter M. Rooney
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region

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Pete Wilson
Governor

July 15, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry Garcia, City Manager
City of Colton
650 N. La Cadena Drive
Colton, CA 92324

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 98-93

Dear Mr. Garcia:

We are enclosing a copy of the staff report supporting the issuance of Administrative Civil Liability (ACL) Complaint No. 98-93. This report will be presented to the Santa Ana Regional Water Quality Control Board at a public hearing scheduled for the August 28, 1998 Board meeting. The meeting will begin at 9:00 a.m. at the City Council Chambers, City of Loma Linda, 25541 Barton Road, Loma Linda. At the hearing, the City will have an opportunity to present testimony concerning the liability proposed and the violation cited in the complaint.

If you have any questions concerning the staff report, please contact Mike Adackapara at (909) 782-3238 or BoB Whitaker at (909) 782-4993.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Staff Report for ACL No. 98-93

cc (w/enclosure):

Ted Cobb, SWRCB - OCC
Ken Greenberg, USEPA Region 9 - W-5-3



Henry Garcia, City Manager

- 2 -

July 27, 1998

July 27, 1998

Henry Garcia, City Manager
City of Colton
650 N. La Cadena Drive
Colton, CA 92324

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

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Please note that if you waive your right to a hearing, a public hearing will not be conducted by the Board on this matter. However, if we do not receive the signed waiver form and a check for the proposed amount by August 6, 1998, this item will be included in the agenda announcement for the August 28, 1998 meeting (the agenda announcement will be mailed on August 7, 1998).

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Executive Officer

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